

# **EXHIBIT J**

**All Nippon Airways  
vs.  
United Air Lines**

Deposition of

**Yusuke Nishiguchi**

Volume 1

November 28, 2007

Reported By: Brandon Combs, CSR 12978  
Job Number: 1-6057

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

- - 000 - -

Plaintiff,

VS.

No. C07-03422 EDL

Defendant.

VIDEOTAPED DEPOSITION OF  
YUSUKE NISHIGUCHI

November 28, 2007

Job 6057

Yusuke Nishiguchi

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1. Seven Times Square, New York, NY 10036, represented by  
 2 MARSHALL S. TURNER and TIMOTHY ESKRIDGE, Attorneys at  
 3 Law, appeared as counsel on behalf of the Plaintiff.  
 4 WORTHE, HANSON & WORTHE, The Xerox Centre,  
 5 1851 East First Street, Ninth Floor, Santa Ana,  
 6 CA 92705, represented by JEFFREY A. WORTHE, Attorney at  
 7 Law, appeared as counsel on behalf of the Defendant.  
 8 ALSO PRESENT: Don Wright; Steven S. Fus;  
 9 Yoshihiro Mizuno; Sadaaki Matsutani, Interpreter; Satoe  
 10 Ohari, Interpreter; Stephen Statler, Videographer.

--oOo--

12 THE VIDEOGRAPHER: Good morning. Here begins  
 13 Videotape 1 of the deposition of Yusuke Nishiguchi in  
 14 the matter of All Nippon Airways, Limited versus  
 15 United Airlines, Incorporated in the U.S. District Court  
 16 for the Northern District of California. The case  
 17 number is C07-03422 EDL.

18 Today's date is November 28, 2007, and the  
 19 time on the video monitor is 10:00 o'clock. The video  
 20 operator today is Stephen Statler representing Combs  
 21 Reporting, 595 Market Street, Suite 620, San Francisco.

22 This video deposition is taking place at  
 23 595 Market Street and was noticed by Jaffe, Raitt, Heuer  
 24 & Weiss.

25 Counsel please identify yourselves and state

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

--oOo--

4 ALL NIPPON AIRWAYS COMPANY, )  
 LTD., )  
 5 )  
 Plaintiff, )  
 6 )  
 vs. ) No. C07-03422 EDL  
 7 )  
 UNITED AIR LINES, INC., )  
 8 )  
 Defendant. )  
 9 )

--oOo--

12 BE IT REMEMBERED THAT, pursuant to Notice and  
 13 on Wednesday, November 28, 2007, commencing at  
 14 10:00 a.m. thereof at 595 Market Street, Suite 620,  
 15 San Francisco, California, before me, BRANDON D. COMBS,  
 16 a Certified Shorthand Reporter, personally appeared  
 17 YUSUKE NISHIGUCHI,  
 18 called as a witness by the Defendant being first duly  
 19 sworn, testified as follows:

--oOo--

21 JAFFE, RAITT, HEUER & WEISS, 27777 Franklin  
 22 Road, Suite 2500, Southfield, MI 48034-8214, represented  
 23 by SCOTT R. TORPEY, Attorney at Law, appeared as counsel  
 24 on behalf of the Defendant.  
 25 CONDON & FORSYTH, LLP, Times Square Tower,

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1 whom you represent.

2 MR. TORPEY: Scott Torpey on behalf of United.

3 MR. WORTHE: Jeff Worthe on behalf of United  
 4 Airlines.

5 MR. FUS: Steve Fus, United Airlines.

6 MR. TURNER: Marshall Turner, Condon & Forsyth  
 7 on behalf of All Nippon Airways.

8 MR. MIZUNO: Yoshihiro Mizuno, All Nippon  
 9 Airways.

10 THE VIDEOGRAPHER: The court reporter today is  
 11 Brandon Combs of Combs Reporting, and would the reporter  
 12 please administer the oath to the interpreter and to the  
 13 witness.

14 (After being duly sworn, the interpreters,  
 15 Satoe Ohari and Sadaaki Matsutani, translated  
 16 questions put to the witness into the Japanese  
 17 language and the answers thereto given by the  
 18 witness were translated into the English  
 19 language.)

--oOo--

21 EXAMINATION BY MR. TORPEY

22 MR. TORPEY: Q. Is it Mr. Nishiguchi?

23 THE INTERPRETER: Nishiguchi.

24 MR. TORPEY: Q. Nishiguchi. Mr. Nishiguchi,  
 25 do you speak any English, sir?

2 (Pages 2 to 5)



Yusuke Nishiguchi

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1 A. Just a little.  
 2 Q. Do you write any English or read any English?  
 3 A. A little.  
 4 Q. Do you read an English newspaper?  
 5 A. I do not.  
 6 Q. Let me get some background on you. How long  
 7 have you been employed at ANA?  
 8 A. 17 years.  
 9 Q. And what positions have you held there?  
 10 A. I was a copilot. I am a captain now.  
 11 Q. When did you become a captain?  
 12 A. It was 2004.  
 13 Q. In order to become a captain from a copilot,  
 14 what requirements did you have to meet?  
 15 A. Can you be more specific.  
 16 Q. Were you promoted to captain just because  
 17 you've been there a number of years, or did you have to  
 18 meet some requirements?  
 19 A. When you say requirements, what kind of  
 20 requirements?  
 21 Q. Well, you tell me. You work for the airline.  
 22 You tell me what the requirements are for somebody to go  
 23 from a copilot to a captain at ANA.  
 24 A. There are ANA requirements.  
 25 Q. Now, I'll ask you again, sir, as I did before,

Page 7

1 what are those requirements?  
 2 A. There are set requirements at the company, but  
 3 I do not know the specifics at this time.  
 4 Q. So why you were promoted from copilot to  
 5 captain, you have no idea is that your testimony, sir?  
 6 MR. TURNER: Objection as to form and  
 7 attitude.  
 8 THE WITNESS: I fulfilled the requirements.  
 9 That is how I became captain, but I do not know what the  
 10 specific requirements were at this time.  
 11 MR. TORPEY: Q. When did you arrive in the  
 12 U.S., sir?  
 13 A. Yesterday morning.  
 14 Q. And about what time?  
 15 A. About now.  
 16 Q. About now, about 10:00 a.m.?  
 17 A. I don't have a specific recollection, but it  
 18 was around this time now.  
 19 Q. When are you scheduled to go back?  
 20 A. Tomorrow.  
 21 Q. At about what time?  
 22 A. I'm scheduled to leave the hotel about this  
 23 time which is around 10:00 o'clock.  
 24 Q. Okay. When did you next have a flight  
 25 scheduled as a crew member for ANA?

Page 8

1 A. I do not know.  
 2 Q. You came here and are leaving here as a  
 3 passenger, not as a crew member; correct?  
 4 A. Yes.  
 5 Q. In preparation for your deposition here, did  
 6 you review any documents, sir?  
 7 A. Yes.  
 8 Q. And what did you review?  
 9 A. The documents that were produced to NTSB.  
 10 Q. And do you understand, sir, if those were  
 11 documents produced by ANA to the NTSB?  
 12 A. Yes.  
 13 Q. And did you review any other documents, sir?  
 14 A. What kind of documents? About what?  
 15 Q. Any documents at all in preparation for your  
 16 giving the deposition today. Did you review anything  
 17 other than the submission to the NTSB?  
 18 A. The Japanese documents that were translated  
 19 into English were submitted to NTSB, and I have not seen  
 20 any document other than those.  
 21 Q. Okay. Do you have any piloting experience  
 22 before you joined ANA, or is all your piloting time  
 23 while employed at ANA?  
 24 A. No.  
 25 Q. I'm sorry? I missed it.

Page 9

1 A. No. To the first question, and yes to the  
 2 second.  
 3 Q. You know, I apologize. I forgot what I asked.  
 4 A. I did not have any piloting experience before  
 5 joining ANA. All my piloting experience was gained at  
 6 ANA.  
 7 Q. The documents that you did review in  
 8 preparation for your deposition, were those in English?  
 9 A. No.  
 10 Q. When you are a crew member of an ANA flight,  
 11 are there occasions when you are designated to be the  
 12 pilot that communicates with ATC? In other words,  
 13 you're the communicating pilot?  
 14 A. Yes.  
 15 Q. And in order to be the pilot communicating,  
 16 you have to be able to speak in English; correct?  
 17 A. Yes.  
 18 Q. How many total hours do you have as a pilot?  
 19 A. I do not recall clearly.  
 20 Q. Do you have any estimate?  
 21 A. Although I do not have a clear recollection,  
 22 it would be about 19,000 hours up to now.  
 23 Q. Were those all -- strike that.  
 24 What type of aircraft are you type-rated in?  
 25 A. Boeing 767 and Boeing 777.

3.(Pages 5 to 9)

Yusuke Nishiguchi

Page 10

1 Q. And when did you first get typed in a 777?  
 2 A. I do not have a clear recollection.  
 3 Q. Would it have been before the year 2000?  
 4 A. Yes.  
 5 Q. Can you give me an estimate of how many hours  
 6 you have in type on that 777?  
 7 A. Can it be approximate?  
 8 Q. Certainly.  
 9 A. About 5,000 hours.  
 10 Q. Now, those 5,000 hours in type, do you fly the  
 11 777 generally the same amount of hours every month? It  
 12 may not be exact, but typically do you log your hours  
 13 the same for all 12 months of the year?  
 14 A. Yes.  
 15 Q. About how many hours a month do you typically  
 16 fly in a 777 as a crew member?  
 17 A. The average would be about 70 hours.  
 18 Q. 70, seven zero?  
 19 A. 70.  
 20 Q. Of those 70 hours a month in a 777, about how  
 21 many hours at least today is as pilot in command?  
 22 A. It would be about three and a half years  
 23 because that would be the time period after I became  
 24 captain.  
 25 Q. All right. Let me break it down. Prior to

Page 11

1 becoming a captain in 2004, you were never a pilot in  
 2 command; correct?  
 3 A. No. That's right.  
 4 Q. And of the 70 hours a month that you fly in a  
 5 777, of those 70 hours would be with you as pilot in  
 6 command?  
 7 A. A rough estimate would be -- or a rough  
 8 calculation would be about 60 hours.  
 9 Q. All right. And of the 70 hours per month you  
 10 average in a 777, how many of those hours are with you  
 11 as the flying pilot as opposed to the nonflying pilot?  
 12 A. About 35 hours, about half.  
 13 Q. As pilot in command, is it your decision to  
 14 decide whether you or the first officer will be the  
 15 flying pilot for a particular flight?  
 16 A. Yes.  
 17 Q. And how do you decide for a particular flight  
 18 whether it should be you or your first officer that  
 19 would be the flying pilot that day?  
 20 A. I make an overall judgment.  
 21 Q. What criteria would you use to say that  
 22 today --  
 23 MR. TURNER: Excuse me.  
 24 CHECK INTERPRETER: The interpreter has not  
 25 completed.

Page 12

1 MR. TORPEY: I apologize. Sorry.  
 2 THE WITNESS: I would consider weather and  
 3 also make a general judgment.  
 4 MR. TORPEY: Q. If the weather was -- well,  
 5 let me ask you -- strike that.  
 6 In addition to weather, what other factors do  
 7 you consider in deciding whether you should be the  
 8 flying pilot on a particular day?  
 9 MR. TURNER: Objection as to form.  
 10 THE WITNESS: I would also consider the years  
 11 of experience of the first officer.  
 12 MR. TORPEY: Q. And anything other than  
 13 weather and the experience of the first officer that you  
 14 would consider?  
 15 A. The situation of the airplane or aircraft.  
 16 Q. Anything else?  
 17 A. There would be others, but I can't think of  
 18 them now.  
 19 Q. Give me a couple of examples of, as you call  
 20 it, situation of the airplane that you would consider in  
 21 determining whether you or the first officer should be  
 22 the flying pilot.  
 23 A. For example, if there is a failure or a  
 24 problem with the aircraft, I would fly the aircraft.  
 25 CHECK INTERPRETER: The check interpreter

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1 would like to put on the record that the Japanese word  
 2 that was translated either to failure or problem,  
 3 f-u-g-u-a-i, which can be malfunction of some sort. It  
 4 can be, in terms of a degree of malfunction, can be very  
 5 slight as compared to the English words used as failure  
 6 or problem.  
 7 That's okay. Just to put it on the record.  
 8 MR. TORPEY: Q. Mr. Nishiguchi, for the 777,  
 9 you understand that there's an ANA operations manual;  
 10 correct?  
 11 A. Yes.  
 12 Q. And are you and your crew members required to  
 13 follow what it directs in the operation manual with  
 14 regard to the operation of the 777 aircraft?  
 15 A. Yes.  
 16 Q. Are you familiar with something called a route  
 17 manual as well?  
 18 A. Yes.  
 19 Q. What's the difference between the route manual  
 20 and the ops manual?  
 21 A. The route manual is from the Jeppesen chart,  
 22 and the operation manual describes the policies of ANA.  
 23 Q. Other than the ops manual and the route  
 24 manual, are there any other manuals that are kept  
 25 routinely in the cockpit of a 777 aircraft for ANA?

4 (Pages 10 to 13)



Yusuke Nishiguchi

Page 14

1 A. Yes.  
 2 Q. And what are those things?  
 3 A. For example, the MEL, CDL manuals.  
 4 Q. Minimum equipment list?  
 5 A. That's right.  
 6 Q. What do you mean by CDL?  
 7 A. I have forgotten.  
 8 Q. Let me show you what was marked yesterday as  
 9 Exhibit 2, Mr. Nishiguchi, and have you look at the  
 10 second page. I'll share this with you. Let me hand you  
 11 this.  
 12 MR. TURNER: I would just comment for you,  
 13 Mr. Torpey, that in view of some question yesterday as  
 14 to whether or not the first two pages of Exhibit 2 were  
 15 correct, accurate translation of the Japanese version,  
 16 we did obtain that same section from the legal  
 17 department, both the Japanese version at the time of the  
 18 accident and the current version, and we have it here in  
 19 case you're interested.  
 20 MR. TORPEY: Well, I'm more than interested.  
 21 We had asked that it be produced, so if you have a  
 22 document to produce. We don't have to discuss it in  
 23 front of the witness.  
 24 MR. TURNER: Well, identify it. The version  
 25 that was in effect at the time the accident, lower

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1 right-hand corner is dated 1999.11.1 number 84, and the  
 2 current one is 2004.8.1, number 121.  
 3 (Whereupon, Exhibits 8 and 9 were marked for  
 4 identification.)  
 5 (Discussion off the record.)  
 6 MR. TURNER: As I understand it the court  
 7 reporter has marked the 2004 current version as  
 8 Exhibit 8 and the 1999 version as Exhibit 9.  
 9 MR. TORPEY: Q. Mr. Nishiguchi, look at  
 10 Exhibit 2, the second page of that in the middle it says  
 11 taxi, and under that it says the captain shall perform  
 12 taxi in accordance with the following. And it gives  
 13 some specifics that the captain has to perform during  
 14 taxi.  
 15 To your knowledge, was that a direction in the  
 16 operations manual back on October 7, 2003, as well?  
 17 A. I do not have a clear recollection.  
 18 Q. I want to back up a step. Before you became a  
 19 captain in 2004, were you also logging about 70 hours a  
 20 month in the 777?  
 21 A. Yes.  
 22 Q. And of those 70 hours before you became a  
 23 captain, about how many of those hours were you the  
 24 flying pilot as opposed to the nonflying pilot?  
 25 A. About half of that, therefore, it is the same

Page 16

1 as before, about 35 hours.  
 2 Q. Now, when you were the first officer before  
 3 you became a captain, was there any particular route  
 4 that you would typically fly, that you flew  
 5 predominantly?  
 6 A. No.  
 7 Q. Did you fly all international, or did you fly  
 8 domestic as well?  
 9 A. Both.  
 10 Q. And would those flights that were not  
 11 international, would those also be in a 777?  
 12 A. Yes.  
 13 Q. I know you've indicated you flew about 70  
 14 hours a month. During those 70 hours, what would be an  
 15 average number of takeoffs and landings?  
 16 A. I do not know clearly.  
 17 Q. Okay. And can you give me an estimate. Would  
 18 you say it would be, you know, your best estimate of how  
 19 many -- in an average month how many takeoffs and  
 20 landings you would perform in the approximate 70 hours  
 21 that you would be flying a 777?  
 22 A. It would be difficult for me to estimate such  
 23 number of times because it's so different between  
 24 international flights and domestic flights.  
 25 Q. Okay. Do you have a pilot logbook or

Page 17

1 documents that reflect the number of hours that you are  
 2 flying?  
 3 A. There is no document.  
 4 Q. Do you know what a pilot logbook is?  
 5 A. Yes.  
 6 Q. And you do not keep a pilot log?  
 7 A. I used to have it before I became captain.  
 8 CHECK INTERPRETER: I used to keep it before I  
 9 became captain.  
 10 MR. TORPEY: Q. Why did you stop keeping it  
 11 when you became a captain?  
 12 A. The company computer does that sort of thing  
 13 now.  
 14 Q. Do you still have possession of your logbook  
 15 from when you were flying before you were a captain?  
 16 A. It is not clear.  
 17 Q. Would you have given it to ANA, or is that  
 18 something that you have personally?  
 19 A. I have not given it. If I searched my house,  
 20 it may come out.  
 21 Q. Okay. You have no reason to throw it away, I  
 22 assume?  
 23 A. Right.  
 24 Q. Mr. Nishiguchi, when you were a first officer  
 25 before 2004, can you tell me about how many times you

5 (Pages 14 to 17)

Yusuke Nishiguchi

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1 would have been the flying pilot that taxied the  
 2 aircraft on the ground, either at departure or on  
 3 arrival, on average, how many times a month. In fact  
 4 let me withdraw that.  
 5 Let me ask you this. Of the about 35 times a  
 6 month that you were the flying pilot before you became a  
 7 captain, on all of those occasions, were you also the  
 8 flying pilot that performed taxi during both landing and  
 9 takeoff?  
 10 MR. TURNER: Objection as to form and  
 11 foundation.  
 12 THE WITNESS: Not necessarily.  
 13 MR. TORPEY: Q. Okay. Why, on those  
 14 occasions when you were the flying pilot, the first  
 15 officer flying pilot, was there someone else that became  
 16 the flying pilot for purposes of taxiing.  
 17 A. That was the judgment of the captain.  
 18 Q. Did you ever have an occasion where the  
 19 captain, although allowed you to be the flying pilot,  
 20 took over the responsibility as the flying pilot when  
 21 you were taxiing into or out of San Francisco Airport?  
 22 A. I do not have a clear recollection.  
 23 Q. Do you know how many times you have taxied a  
 24 777 aircraft either on departure or arrival at  
 25 San Francisco Airport? And I mean as the flying pilot.

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1 MR. TURNER: Objection as to form.  
 2 THE WITNESS: I have forgotten.  
 3 MR. TORPEY: Q. Do you know whether prior to  
 4 October 7, 2003, you as the flying pilot ever taxied a  
 5 777 upon departure or arrival at San Francisco Airport?  
 6 A. Yes.  
 7 Q. Can you tell me on how many occasions before  
 8 October 7, 2003, you were the flying pilot taxiing a 777  
 9 aircraft upon arrival or departure at San Francisco  
 10 Airport?  
 11 A. I do not have a clear recollection of the  
 12 number of times.  
 13 Q. Do you have any recollection, or would you be  
 14 unable to give us any idea?  
 15 A. I have no idea at this time.  
 16 Q. And I take it therefore you also don't know  
 17 when prior to October 7, 2003, was the last time you  
 18 were the flying pilot taxiing upon arrival or departure  
 19 at San Francisco Airport?  
 20 A. I do not know at this time.  
 21 Q. Have you had occasion where you were the  
 22 flying pilot and the captain decided to taxi himself at  
 23 San Francisco Airport either upon arrival or departure?  
 24 A. I have forgotten.  
 25 Q. Whether that happened or not you don't know?

Page 20

1 A. Not as related to San Francisco.  
 2 Q. Have you ever been the captain and relieved  
 3 your flying pilot of the taxi responsibility going into  
 4 or out of San Francisco Airport?  
 5 A. No.  
 6 Q. Can you recall any airport where you were the  
 7 copilot and flying pilot and nonetheless the captain  
 8 took over responsibility for taxi either at the  
 9 departure or upon arrival?  
 10 A. Yes.  
 11 Q. What airport or airports?  
 12 A. Sapporo Airport, C-h-i-t-o-s-e, Airport in  
 13 Sapporo.  
 14 Q. Anywhere else other than Sapporo?  
 15 A. Yes.  
 16 Q. And where else?  
 17 A. Kagoshima Airport, K-a-g-o-s-h-i-m-a.  
 18 Q. Anywhere else?  
 19 A. Komatsu Airport, K-o-m-a-t-s-u, Airport.  
 20 Q. Okay. Any others?  
 21 A. H-a-n-e-d-a, Airport.  
 22 Q. Okay. Any others?  
 23 A. There are others.  
 24 Q. Tell me every one that you recall, sir.  
 25 A. Nagasaki Airport, N-a-g-a-s-a-k-i.

Page 21

1 Q. Okay. Any others?  
 2 A. A-k-i-t-a. I do not recall others.  
 3 Q. What's your understanding as to why you were  
 4 relieved of the responsibility to taxi at these  
 5 airports?  
 6 A. Because of snow.  
 7 Q. Any other reasons?  
 8 A. That was the captain's judgment, so I do not  
 9 know why.  
 10 Q. And what about the snow condition -- let me  
 11 ask you. Would the fact that there were snow conditions  
 12 make the taxi more dangerous and is that why the captain  
 13 decided to take over the taxi responsibilities?  
 14 A. I think so.  
 15 Q. Have you ever been involved in any accidents  
 16 or incidents other than the one in San Francisco on  
 17 October 7, 2003?  
 18 A. No.  
 19 Q. As a result of the accident at San Francisco,  
 20 was there any type of reprimand or action taken with  
 21 regard to you?  
 22 A. No. There was no reprimand.  
 23 Q. Was there any training or any other action  
 24 taken by ANA with regard to yourself specifically in  
 25 relation to the fact that you had this accident?

6 (Pages 18 to 21)



Yusuke Nishiguchi

Page 22

1 A. There was no flight scheduled for about two  
2 weeks.

3 Q. Other than not scheduling you, was there any  
4 other action taken by ANA with regard to yourself as a  
5 result of this accident?

6 A. There was a personnel examination.

7 Q. And what did that involve?

8 A. Together with the examiner, Captain Yamaguchi  
9 and I did an arrival and departure exercise at  
10 San Francisco Airport.

11 CHECK INTERPRETER: The examiner was also  
12 there, altogether three people and also takeoff and  
13 landing, takeoff and landing.

14 THE INTERPRETER: I said departure and  
15 arrival, but his terminology landing and takeoff is a  
16 better term.

17 MR. TORPEY: That's fine.

18 Q. Who performed -- let me back up. Just  
19 describe for me what it was that you and  
20 Captain Yamaguchi had to do at San Francisco?

21 A. It was an ordinary flight.

22 Q. Did you have to perform taxi functions?

23 A. No. I didn't do it.

24 Q. Did Captain Yamaguchi have to taxi?

25 A. Yes.

Page 23

1 Q. Was there a supervisor or check airman or  
2 somebody that was in charge of directing or watching  
3 what you were doing?

4 A. Yes.

5 Q. Who was that person?

6 A. It was a checker. I do not recall his name.

7 Q. Was it the same person that was the observer  
8 pilot on your flight on October 7, 2003?

9 A. No.

10 Q. Was the flight a regularly scheduled flight  
11 with pay to you and Mr. Yamaguchi?

12 A. I don't know about that.

13 Q. Prior to October 7 -- strike that.

14 Do you understand that ANA conducted an  
15 investigation into the cause and circumstances leading  
16 up to the collision?

17 A. Yes.

18 Q. And who on behalf of ANA was in charge of that  
19 investigation?

20 A. I do not know.

21 Q. What role did you play in the investigation?

22 A. Can you be more specific.

23 Q. Who came to talk to you about what had  
24 happened at the airport?

25 A. I do not recall the name. He was a

Page 24

1 supervisor.

2 Q. Did anybody else other than one supervisor  
3 come and talk to you?

4 A. I do not have a clear recollection.

5 Q. Okay. Did they talk to you and Mr. Yamaguchi  
6 at the same time?

7 A. No.

8 Q. Did the discussion take place before the  
9 flight to San Francisco that you told me about that  
10 occurred after October 7, 2003?

11 A. No.

12 Q. What do you understand ANA determined to be  
13 the cause of the collision on October 7, 2003?

14 MR. TURNER: Objection as to form and  
15 foundation.

16 THE WITNESS: I do not know.

17 MR. TORPEY: Q. Who do you understand to be  
18 the party or parties responsible for the collision on  
19 October 7, 2003?

20 A. I cannot say at this time. I do not know.

21 Q. As a flying pilot on October 7, 2003, that was  
22 involved in this accident, in your mind, who do you  
23 believe was responsible for causing this collision?

24 A. I can't say who was responsible at this time.

25 Q. Do you believe that you were in any way

Page 25

1 responsible for causing the collision between the  
2 aircraft you were the flying pilot of and the United  
3 aircraft?

4 A. No.

5 Q. And you have no opinion as to who aside from  
6 yourself may be at fault in any way for causing the  
7 collision?

8 MR. TURNER: Can I have that question read  
9 back, please.

10 (Record read by the reporter.)

11 MR. TURNER: Objection as to form and  
12 foundation.

13 THE WITNESS: I don't know what you mean when  
14 you say who is at fault.

15 MR. TORPEY: Q. You indicated that you did  
16 not believe that you were at fault or responsible for  
17 causing the collision. And my question is have you  
18 formed an opinion that anyone else was at fault or  
19 responsible for causing the collision?

20 A. I believe that there is a cause, but I do not  
21 know about fault.

22 Q. What was the cause?

23 A. I think there were various causes also.

24 Q. Tell me what all those causes are, sir.

25 A. Can you give me a more specific question.

7 (Pages 22 to 25)

Yusuke Nishiguchi

Page 26

1 Q. I believe that is specific. I'm asking you to  
2 tell me what in your mind you formed as an opinion of  
3 the causes of the collision.

4 A. There were many factors involved in the  
5 circumstance at that time such as the ATC.

6 Q. What else beyond ATC?

7 A. There are various factors, so I cannot think  
8 of them at this time.

9 Q. When you talk about ATC, you're talking about  
10 ground control?

11 CHECK INTERPRETER: The witness asked to have  
12 the question repeated, and the lead interpreter  
13 complied.

14 MR. TORPEY: So where are we?

15 THE WITNESS: There are various --

16 THE INTERPRETER: I need to.

17 MR. TORPEY: No problem.

18 THE WITNESS: For example, there is the  
19 control tower or there's ground control, so there are  
20 many factors to ATC.

21 MR. TORPEY: Q. Are you referring to ATC to  
22 include ramp control tower?

23 A. Yes.

24 Q. And do you understand the ramp control tower  
25 was, at San Francisco, operated by United Airlines?

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1 A. No.

2 Q. You don't know one way or the other?

3 A. Right.

4 Q. But you do believe that the ramp control on  
5 October 7, 2003, was at least one of the causes for the  
6 collision; correct?

7 A. I believe there was also the problem of the  
8 entire ATC problem of the ramp control.

9 Q. But you do believe that ramp control was one  
10 of the causes of this collision; am I correct?

11 A. Yes.

12 Q. And how is it that ramp control in your mind  
13 contributed to the cause of this collision?

14 A. I myself do not know the cause itself. I  
15 believe there are various factors.

16 Q. What I'm asking, Mr. Nishiguchi, is you  
17 believe that United -- strike that.

18 You believe that ramp control was a cause.  
19 What in your mind did ramp control do or not do that you  
20 believe contributed to the cause of the collision?

21 A. This is not my opinion, but according to the  
22 ANA investigation, a view was reached that two aircrafts  
23 could not push back and taxi irrespectively at the same  
24 time at that location.

25 Q. Mr. Nishiguchi, I've asked though for your --

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1 this entire line of questioning had to do with your  
2 personal opinions as to the cause or causes, and you  
3 indicated that you personally have come to the  
4 conclusion that you believe that ramp control was a  
5 cause of this collision.

6 So I'm only asking for what you believe, you  
7 personally, as the flying pilot on October 7, 2003, what  
8 you personally believe the ramp control did or did not  
9 do that caused this collision.

10 MR. TURNER: Objection as to form and  
11 foundation.

12 THE WITNESS: I do not say that ramp control  
13 was the cause, that it was one of the causes.

14 CHECK INTERPRETER: That it was the sole  
15 cause.

16 MR. TORPEY: Q. I'll try again.

17 Mr. Nishiguchi, I am not asking whether they  
18 were the sole cause. I'm asking you to tell me now what  
19 you believe ramp control did or did not do that  
20 contributed to the cause of the collision. For example,  
21 let me ask you -- translate that, and then I'll add to  
22 the question.

23 For example, as the flying pilot, from the  
24 time your aircraft taxied from the engine-start line to  
25 the point of impact, did you rely on ramp control to

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1 provide proper clearances and instructions for taxi?

2 THE INTERPRETER: Can you read it back for me.

3 MR. TURNER: Just so I don't interrupt,  
4 objection as to form and foundation.

5 THE WITNESS: Yes.

6 MR. TORPEY: Q. And as the flying pilot on  
7 October 7, 2003, did you also rely on ramp control to  
8 issue traffic advisories and safety alerts to you?

9 A. We did receive taxi clearance.

10 Q. My question, sir, is, as the flying pilot, did  
11 you rely on ramp control to issue to you traffic  
12 advisories and safety alerts, for example, warning or  
13 alert that there was another aircraft potentially in  
14 your taxi path?

15 A. I was relying on ramp control and ATC.

16 Q. So you agree with me that you relied on ramp  
17 control, at least as one of two individuals, to provide  
18 traffic advisories and safety alerts?

19 CHECK INTERPRETER: Advisory though is for  
20 example, it's a warning -- the lead interpreter is  
21 translating advisory as information. That's not  
22 necessarily correct.

23 MR. TORPEY: Q. It's really pretty simple.

24 Mr. Nishiguchi, do you believe, sir, that you  
25 relied as the flying pilot upon ramp control and perhaps

8 (Pages 26 to 29)



Yusuke Nishiguchi

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1 others, to warn you of the potential collision hazard  
2 with the United aircraft on October 7 of 2003?

3 A. I don't know about warning, but I believe that  
4 it is the duty of the pilot to follow the instructions  
5 given by ATC including ramp control.

6 Q. I'm going to move to strike that answer.

7 Mr. Nishiguchi, please listen carefully to my  
8 question. I did not ask you about that. I asked you  
9 simply -- I'll just have the court reporter read back  
10 the question, and I'd like you to listen carefully and  
11 answer the question that I asked, please.

12 (Record read by the reporter.)

13 THE WITNESS: I do not know what you mean when  
14 you say warn -- quote, warn you, close quote because it  
15 is the duty of the pilot to follow the clearance.

16 MR. TORPEY: Q. Is it your position as the  
17 flying pilot that the ramp control gave you clearance to  
18 taxi and you relied on that clearance and that clearance  
19 was an assurance, an assurance, to you by the ramp  
20 controller that no collision would occur?

21 A. We followed the clearance to taxi, but I do  
22 not know what you mean when you say assured by such and  
23 such.

24 Q. Did you rely on ramp control as the flying  
25 pilot in getting clearance from ramp control -- strike

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1 that.

2 Let me rephrase it. As the flying pilot  
3 receiving clearance from ramp control to taxi, do you  
4 rely on that to mean that there will be no possibility  
5 of a collision hazard between yourself and another  
6 aircraft if you follow that clearance?

7 A. I believed that in general if one can get --

8 THE INTERPRETER: The interpreter will  
9 restate.

10 THE WITNESS: I believe that in general if one  
11 followed the air traffic control system, one could get  
12 clearance.

13 MR. TORPEY: Q. I'll move to strike that  
14 answer.

15 Mr. Nishiguchi, we are not talking about  
16 whether or not you got clearance. We understand that  
17 you got clearance, and I'll ask for the last time this  
18 question.

19 And that is, did you rely on that clearance  
20 from ramp control as an assurance to you as the flying  
21 pilot that you would not collide with another aircraft  
22 if you followed that clearance? That's the question,  
23 sir.

24 A. I do not know what you mean when you say  
25 assure. We received clearance, so we simply followed

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1 the clearance.

2 Q. What does the word guarantee mean to you?  
3 What does that word mean, sir?

4 A. A guarantee, it's like an insurance, but then  
5 I do not know what the meaning is really. I don't know  
6 what that would mean in the aviation world.

7 MR. TORPEY: I'd ask the interpreter if there  
8 is a word in Japanese that is the same as the English  
9 word assurance.

10 THE INTERPRETER: Yes. And she would use the  
11 Japanese word hoshu.

12 MR. TORPEY: Q. And what does that mean in  
13 Japanese?

14 A. It means to guarantee.

15 CHECK INTERPRETER: H-o-s-h-o.

16 MR. TORPEY: Q. Mr. Nishiguchi, was the  
17 clearance that was issued by ramp control to you as the  
18 flying pilot a guarantee that you would not have a  
19 collision with another aircraft if you followed that  
20 clearance?

21 A. I believe that it was an instruction or  
22 permission to taxi including all those things including  
23 collision.

24 Q. And so you relied on that clearance as the  
25 flying pilot on October 7 of '03; correct?

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1 MR. TURNER: Objection as to form.

2 THE WITNESS: I did not rely. I followed the  
3 taxi clearance.

4 CHECK INTERPRETER: Instruction. The check  
5 interpreter stands corrected. There was no instruction.

6 MR. TORPEY: Q. What does the word rely mean  
7 to you, sir?

8 A. I don't know what that would mean in the  
9 aviation world. What other word would there be?

10 Q. As the flying pilot of the ANA aircraft that  
11 day, Mr. Nishiguchi, did you follow the clearance  
12 instructions from ramp control?

13 That's it. Did you follow?

14 A. Yes.

15 Q. And do you believe following ramp control's  
16 instructions was at least one of the contributing  
17 factors in causing the collision on October 7 of 2003?

18 A. Can you change -- can you ask me that question  
19 in other way.

20 Q. I think that question is very direct, sir, and  
21 I'd like an answer to that question exactly as it's  
22 asked.

23 MR. TURNER: Objection as to form.

24 THE WITNESS: Then can I have the question  
25 again.

9 (Pages 30 to 33)



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1 MR. TORPEY: Certainly. Read it back in  
2 English and in Japanese, please.  
3 (Record read by the reporter.)  
4 THE WITNESS: If we had not taxied, there  
5 would not have been a collision, so I believe that is  
6 one of the contributing factors.  
7 CHECK INTERPRETER: In that sense.  
8 MR. TORPEY: Q. And the communication  
9 between -- strike that.  
10 The way your aircraft received the clearance  
11 that we have been discussing from ramp control was by  
12 way of flight deck to ramp control communications; is  
13 that correct, sir?  
14 A. The clearance is received through the radio  
15 communication of the aircraft.  
16 Q. With ramp control; correct?  
17 A. All ATC including ramp control.  
18 MR. TURNER: We've been going for well over an  
19 hour and a half now.  
20 MR. TORPEY: We can take a break.  
21 MR. TURNER: Let's take a break.  
22 THE VIDEOGRAPHER: This concludes Videotape 1  
23 in the deposition of Yusuke Nishiguchi. The time on the  
24 monitor is 11:34 a.m.  
25 (Recess taken.)

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1 THE VIDEOGRAPHER: Here begins Videotape 2 of  
2 the deposition of Yusuke Nishiguchi. Coming back on the  
3 record. The time on the monitor is 11:48 a.m. Please  
4 begin.  
5 MR. TORPEY: Q. Mr. Nishiguchi, look at  
6 Exhibit 8 that you have in front of you please, sir.  
7 And look at the second page -- strike that. I  
8 apologize. I'm sorry.  
9 Look at Exhibit 9. I keep forgetting there's  
10 two exhibits there. They really shouldn't even be  
11 paper-clipped together.  
12 Exhibit 9, which is an ops manual page with  
13 the date of 1999, apparently November of '99. If you  
14 look under item 2 and since this document is entirely in  
15 Japanese, obviously I can't read it, but can you read to  
16 me what it says at item 2, and then the subitems 1,  
17 2 and 3 below it.  
18 MR. TURNER: You're referring to the 2 that is  
19 in the circle as opposed to in the parentheses or  
20 outside of them?  
21 MR. TORPEY: Exactly.  
22 MR. TURNER: The 2 that's in the circle.  
23 THE WITNESS: Yes, I read them.  
24 MR. TORPEY: Would you read -- maybe the  
25 easiest thing to do is, Satoe, could you read those in

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1 English to us.  
2 THE INTERPRETER: I might as well have the  
3 English version.  
4 MR. TORPEY: Let me do this. I know. Here's  
5 what we can do.  
6 MR. TORPEY: Q. Mr. Nishiguchi, having read  
7 Exhibit 9, would you now look at Exhibit 2 and at the  
8 second page where it says in English, number 2, taxiing,  
9 and it has subparts 1 through 5, is the very first  
10 sentence in Exhibit 2 where it says, the captain shall  
11 perform taxi in accordance with the following.  
12 Does that language appear in Exhibit 9 as  
13 well?  
14 A. No.  
15 Q. What does the first line -- and again, maybe  
16 Satoe, could you read us the first line of Exhibit 9  
17 after number 2.  
18 THE INTERPRETER: In Japanese?  
19 MR. TORPEY: Well, it's in Japanese. Can you  
20 translate to English.  
21 MR. TURNER: You mean the word next to the 2  
22 in circle or the line below?  
23 MR. TORPEY: That and the line below.  
24 MR. TURNER: Okay.  
25 THE INTERPRETER: It says the time of the

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1 beginning of the powered run. So there's something I  
2 need to confirm with him.  
3 We have just discovered that the format is  
4 different in Japanese than English. In the English  
5 version, taxi starts with 2 in a circle and it's just  
6 that. But in the Japanese version, taxi includes both 2  
7 in a circle 3 in a circle. It's longer.  
8 MR. TORPEY: So there's actually more taxiing  
9 instructions in Exhibit 9 than in Exhibit 2; am I  
10 correct?  
11 THE INTERPRETER: The witness says he doesn't  
12 know.  
13 MR. TORPEY: Q. Why don't we do this. I  
14 don't want to take a lot of time on this, but would  
15 you -- in fact, let's do this. Would you find for me in  
16 Exhibit 9, wherever it is on Exhibit 9, the language  
17 that's contained in Exhibit 2 that says, the captain  
18 shall perform taxi in accordance with the following?  
19 A. There is no such statement in Exhibit 9.  
20 Q. Look at Exhibit 8. Is that statement in  
21 Exhibit 8 anywhere?  
22 A. No.  
23 Q. Going back to Exhibit 2 under item 2, taxi,  
24 subpart 2 it says, be observant of all obstacles around  
25 him and taxi speed is such that he may bring his

10 (Pages 34 to 37)

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1 airplane to an immediate and complete stop.  
 2 Is that language contained anywhere on  
 3 Exhibit 8 or 9?  
 4 A. Yes. Yes. Although the term captain isn't  
 5 included.  
 6 Q. Okay. Look at that same Exhibit 2  
 7 or -- strike that.  
 8 I'm looking at Exhibit 2 under item 2, taxi,  
 9 at subpart 5 which says, ask for a signalman's  
 10 assistance in the event that there's any obstacle in the  
 11 vicinity of the ramp area.  
 12 Is that language in Exhibits 8 and/or 9?  
 13 A. Yes.  
 14 Q. And on October 7, 2003, was Exhibit 9 the  
 15 current version of the ops manual that you were required  
 16 to follow in operating your aircraft that day as the  
 17 flying pilot?  
 18 A. I do not know.  
 19 Q. Assuming that it was or assuming that a later  
 20 version still had those two provisions in it, you were  
 21 required to follow those directions when you were the  
 22 flying pilot on October 7 of 2003?  
 23 MR. TURNER: Objection as to form and  
 24 foundation.  
 25 THE WITNESS: No. That is not correct.

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1 Q. So even if the ops manual that was in effect  
 2 on October 7, 2003, contained the language that is  
 3 marked at item 2, subparts 2 and 5 of Exhibit 2, your  
 4 position is you could disregard those instructions as  
 5 the flying pilot?  
 6 MR. TURNER: Objection as to form and  
 7 foundation.  
 8 MR. TORPEY: I want to withdraw the question.  
 9 Q. As the flying pilot on October 7, 2003, I want  
 10 you to assume that in the ops manual that applied to  
 11 your operations of the aircraft that day, that ops  
 12 manual contained the following language.  
 13 MR. TORPEY: Why don't you translate that and  
 14 I'll finish.  
 15 THE WITNESS: So I should assume that these  
 16 two were included?  
 17 MR. TORPEY: Q. That's correct, sir.  
 18 If these two, referring specifically at  
 19 Exhibit 2, item 2, subparts 2 and 5, if those two items  
 20 were part of the ANA ops manual for the 777 aircraft on  
 21 October 7, 2003, then you, Mr. Nishiguchi, as the flying  
 22 pilot were required to follow those two instructions;  
 23 correct?  
 24 MR. TURNER: Objection as to form and  
 25 foundation.

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1 THE WITNESS: That is a hypothetical question,  
 2 so I cannot answer.  
 3 MR. TORPEY: Q. With all due respect, I do  
 4 want you to answer, and I want you to answer my  
 5 hypothetical. It is a hypothetical, and I would like  
 6 you to answer it, please.  
 7 MR. TURNER: Objection as to form and  
 8 foundation and incomplete hypothetical.  
 9 THE WITNESS: Well, we are looking at the 2007  
 10 version of the operations manual, so I do not know if  
 11 these subitems were included at that time.  
 12 MR. TORPEY: Q. I'm not asking you whether  
 13 you knew, Mr. Nishiguchi. I'm telling you, assume they  
 14 were.  
 15 MR. TURNER: Same --  
 16 MR. TORPEY: Q. And if they were included,  
 17 you as the flying pilot on October 7, 2003, were  
 18 required to follow those instructions; correct?  
 19 MR. TURNER: Objection as to form and  
 20 incomplete hypothetical.  
 21 THE WITNESS: I would follow the operations  
 22 manual, but since I don't know what the content is, I  
 23 cannot answer.  
 24 MR. TORPEY: Q. Okay. Fair enough.  
 25 Why is there an English and a Japanese version

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1 of the ops manual?  
 2 A. I do not know.  
 3 Q. Do you keep the English or the Japanese  
 4 version or both in the aircraft?  
 5 A. It is not clear. There was the Japanese  
 6 version.  
 7 Q. When was the last time you flew a 777  
 8 aircraft?  
 9 A. I do not recall.  
 10 Q. Has it been several months?  
 11 A. I think it's been several weeks.  
 12 Q. When you were last in the 777 aircraft, was  
 13 the English or the Japanese ops manual onboard?  
 14 A. There was the Japanese manual.  
 15 Q. And was the route manual in English or  
 16 Japanese?  
 17 A. Both.  
 18 Q. Have you ever heard of the term conflict  
 19 resolution as a pilot, as a commercial airline pilot?  
 20 A. No.  
 21 Q. What is the word that -- strike that.  
 22 To become a commercial -- strike that.  
 23 To be a commercial airline pilot with ANA,  
 24 were you taught by ANA any procedures at all with regard  
 25 to what to do if you perceive a potential collision

11 (Pages 38 to 41)



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1 hazard with another aircraft while taxiing on the  
2 ground?

3 A. No.

4 Q. Do you understand as a captain or as a  
5 previous copilot of an ANA aircraft, that if your  
6 aircraft had taxied and collided with another aircraft,  
7 that could cause a safety issue?

8 A. If there is a collision, it is not safe.

9 Q. As a flying pilot for ANA, Mr. Nishiguchi, if  
10 you believed that while taxiing your aircraft was going  
11 to collide with another aircraft, would you stop that  
12 aircraft, your aircraft, before colliding?

13 A. Oh, well, yes, I would.

14 Q. Because colliding with another aircraft while  
15 taxiing can have safety concerns, would you also stop  
16 your aircraft if you did not know for sure whether or  
17 not you were going to have a collision with another  
18 aircraft while taxiing?

19 MR. TURNER: Objection as to form and  
20 incomplete hypothetical.

21 THE WITNESS: The question was long, and I  
22 don't understand it.

23 MR. TORPEY: Read it back please in English  
24 and in Japanese.

25 (Record read by the reporter.)

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1 THE WITNESS: I don't know.

2 MR. TORPEY: Q. So even if you are not sure  
3 whether or not you're going to collide with another  
4 aircraft during taxi, you as the pilot flying would  
5 consider continuing taxi rather than stop before you  
6 knew whether or not you were going to hit the other  
7 aircraft?

8 Is that what your testimony is to the jury,  
9 sir?

10 MR. TURNER: Objection as to form, foundation,  
11 and incomplete hypothetical.

12 THE WITNESS: I do not understand the real  
13 intent of the question.

14 MR. TORPEY: Q. Well, with all due respect,  
15 Mr. Nishiguchi, I'm not asking you to understand the  
16 intent. I would just like you to answer the question.

17 And the reason I'm saying that is, when the  
18 jury at the time of trial hears your answer, I want to  
19 make sure that I've gotten it from you the way you  
20 intended, so there's no misunderstanding.

21 MR. TURNER: Objection to your comment and the  
22 question, form and foundation and incomplete  
23 hypothetical.

24 MR. TORPEY: Q. Mr. Nishiguchi, I want you to  
25 assume hypothetically that you are the copilot of an ANA

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1 777 and you are also the flying pilot. I want you to  
2 also assume that you perceive that you could run into  
3 another aircraft as you are taxiing.

4 If you don't know for sure whether or not you  
5 can avoid hitting that aircraft, would you, A, stop  
6 until you know whether or not you can clear it or, B,  
7 keep going and hope you clear it but you may not?

8 Which would you do, A or B?

9 MR. TURNER: Objection as to form, foundation  
10 and incomplete hypothetical.

11 THE WITNESS: The question is long, and I  
12 don't understand it. And when you say could run into,  
13 what sort of situation is that?

14 MR. TORPEY: Q. Mr. Nishiguchi, it doesn't  
15 matter what the situation is. I'm talking to you about  
16 running into another aircraft. I don't care if you run  
17 into it from the front, the back, the side or upside  
18 down.

19 Let me withdraw the question. I'll withdraw  
20 the question.

21 Do you have family, sir?

22 A. I am married.

23 Q. Children?

24 A. I do not have children.

25 Q. Okay. Well, let me ask you, if your wife was

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1 on an aircraft and that aircraft was taxiing at  
2 San Francisco Airport and the pilot flying that  
3 aircraft -- another aircraft that he potentially could  
4 run into during the taxi.

5 MR. TORPEY: Translate that, and I'll finish.

6 Q. Would you want the pilot of that aircraft  
7 carrying your wife to, A, stop the aircraft until the  
8 pilot knows for sure he is not going to run into the  
9 other aircraft or, B, keep taxiing not knowing whether  
10 or not there would be a collision?

11 MR. TURNER: Objection as to form, foundation,  
12 and incomplete hypothetical.

13 THE WITNESS: And where am I in that question?

14 MR. TORPEY: Q. Doesn't matter where you are,  
15 Mr. Nishiguchi. I'm giving you a hypothetical. You are  
16 now aware of the information I just provided you. Which  
17 of those two decisions would you want the pilot of that  
18 aircraft to make? Choice A or choice B?

19 MR. TURNER: Objection as to form, foundation  
20 and incomplete hypothetical.

21 THE WITNESS: At least I would want him to  
22 choose safety.

23 MR. TORPEY: Q. So you would prefer that he  
24 stop the aircraft if there's any question about whether  
25 he may or may not run into the other aircraft; correct?

12 (Pages 42 to 45)



Yusuke Nishiguchi

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1 MR. TURNER: Objection as to form, foundation  
2 and incomplete hypothetical.

3 THE WITNESS: I do not say that. If it is  
4 safe, if there's no collision --

5 THE INTERPRETER: The interpreter will  
6 restate.

7 THE WITNESS: I did not say this. I said that  
8 it would be good if it is safe and if there is no  
9 collision.

10 MR. TORPEY: Q. You said that you want the  
11 pilot to choose safety for your wife. As a pilot  
12 yourself, Mr. Nishiguchi, do you think it would be a  
13 safe choice to continue taxiing an aircraft if you did  
14 not know for sure whether or not you were going to  
15 collide with another aircraft during that taxi?

16 MR. TURNER: Objection as to form and  
17 incomplete hypothetical.

18 THE WITNESS: I do not understand the  
19 situation very well, so I could not answer.

20 MR. TORPEY: I'll move to strike that, and I  
21 believe that was unresponsive. And I also note for the  
22 record that the witness seems to be following a pattern  
23 with counsel that when counsel objects, the witness does  
24 not provide us substantive answer.

25 MR. TURNER: I object to your comment, and

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1 when counsel for ANA objects, he's objecting because  
2 your questions are poor questions and improper.

3 MR. TORPEY: Q. As a pilot for ANA, do you  
4 have an obligation to provide the utmost in safety to  
5 ANA customers and passengers when you're piloting that  
6 aircraft?

7 A. Yes.

8 Q. In your opinion as a now captain for ANA,  
9 Mr. Nishiguchi, is it safer for the passengers on ANA  
10 aircrafts to have you continue taxiing your aircraft  
11 when you don't know whether or not you're going to run  
12 into another aircraft, or is it safer for you to stop  
13 your aircraft until you can determine that you will, in  
14 fact, clear the other aircraft?

15 MR. TURNER: Objection as to form, foundation,  
16 incomplete hypothetical. And you're just repeating your  
17 questions, and you're just arguing with the witness. I  
18 really object to the whole process.

19 THE WITNESS: I have said this repeatedly, but  
20 I cannot answer that question as to which is better.

21 MR. TORPEY: Q. Do you have a protocol,  
22 Mr. Nishiguchi, that you follow when you see a potential  
23 collision hazard with another aircraft while taxiing on  
24 the ground?

25 A. What do you mean by protocol?

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1 MR. TORPEY: Satoe, what is the Japanese word  
2 synonymous with protocol?

3 THE INTERPRETER: I translated it as  
4 procedure.

5 MR. TORPEY: Q. Are you going to answer, sir?

6 A. I don't know that I quite understand the  
7 question. I vaguely understand it, but I'm not clear  
8 about the situation.

9 Q. Mr. Nishiguchi, with all due respect, sir, the  
10 question was very clear. I will ask that it be read  
11 back one more time, and then I'm going to play this to  
12 the jury if need be and let that jury see that as your  
13 answer.

14 I think it's very direct, and I'm going, in  
15 fairness, to give you one final opportunity to consider  
16 the question and to give me your most truthful answer  
17 that you will also give to that question in front of the  
18 jury that hears this case.

19 MR. TURNER: I just want the witness not to be  
20 fooled by Mr. Torpey into believing Mr. Torpey has the  
21 ability to play anything to the jury. The judge will  
22 determine what is played to the jury and what is not  
23 played to the jury, not Mr. Torpey.

24 Please translate that.

25 MR. TORPEY: Why don't you read back the

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1 question in English, and then ask him to answer it.

2 (Record not read by the reporter.)

3 THE WITNESS: There are all kinds of  
4 situations, so I cannot answer the question.

5 MR. TORPEY: Q. I'll move to strike the  
6 answer as nonresponsive, and since you will not answer  
7 that question, I'll have to ask something different.

8 Mr. Nishiguchi, I want you to assume you are  
9 the pilot flying an aircraft for ANA and that you're  
10 taxiing. Do you understand the question so far?

11 A. Yes.

12 Q. Second, I want you to assume that you've been  
13 given clearance to taxi for takeoff. You understand the  
14 question so far?

15 A. Yes.

16 Q. Third, I want you to assume that you now learn  
17 after having been cleared to taxi that another aircraft  
18 is on short final to land on that same --

19 MR. WORTHE: You said taxi. You mean takeoff.

20 MR. TORPEY: Takeoff. Excuse me. Let me  
21 rephrase it.

22 Q. I want you to assume that another aircraft is  
23 on short final to land on that same runway that you've  
24 already been cleared to take off on.

25 Do you understand the question so far?

13 (Pages 46 to 49)

Yusuke Nishiguchi

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1 MR. TURNER: I'd like to object. Please start  
2 over. I don't know what you were withdrawing and not  
3 withdrawing. I'm sorry.

4 MR. TORPEY: I'll start over.

5 Q. Mr. Nishiguchi, I want you to assume that you  
6 are the flying pilot and pilot in command of an ANA 777  
7 at San Francisco Airport.

8 A. Yes.

9 Q. You understand the question so far?

10 A. Yes.

11 Q. Next I want you to also assume that you've  
12 received clearance from air traffic control onto the  
13 active runway for takeoff?

14 A. Yes.

15 Q. And you understand my question so far?

16 A. Yes.

17 Q. Next I want to have you assume that you learn  
18 now that even though you're cleared to take off, you  
19 learn that another aircraft is on short final to land on  
20 that same runway you have been cleared onto.

21 A. What do you mean by short final to land?

22 Q. Assume that the other aircraft has been  
23 cleared to land and is in the process, is in final  
24 approach, to land on the same taxiway that you've been  
25 cleared to take off on?

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1 MR. WORTHE: Runway.

2 MR. TORPEY: Excuse me. Runway. I keep  
3 missing the word.

4 THE WITNESS: But the controller does not give  
5 clearances to two aircraft at the same time.

6 MR. TORPEY: Q. Mr. Nishiguchi, I want you to  
7 assume my question is true and accurate as given. I  
8 don't want you to introduce new facts. I want you to  
9 accept my hypothetical as is, and based on that, I want  
10 your opinion.

11 A. Yes.

12 Q. So let me restate the question, and based on  
13 what I am telling you, I want you to assume it to be  
14 true, and then I'm going to ask you a question  
15 hypothetically.

16 First, I want you to assume that you have been  
17 cleared onto an active runway to take off at  
18 San Francisco Airport and that you are the pilot in  
19 command and flying pilot.

20 Second, I want you to assume as true that  
21 after you have been cleared onto the active runway for  
22 takeoff and before you have taken off, another aircraft  
23 is cleared to land on that same runway.

24 In that situation, Mr. Nishiguchi, what would  
25 you do? Would you, A, continue taxiing onto the active

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1 runway, or, B, would you take some other action such as  
2 contacting air traffic control to determine whether  
3 there could be a collision hazard if you taxied onto the  
4 runway?

5 MR. TURNER: Objection as to form, foundation  
6 and incomplete hypothetical.

7 THE WITNESS: One question, please. If the  
8 runway -- if one enters the runway, then you cannot see  
9 the aircraft.

10 MR. TORPEY: Q. Mr. Nishiguchi, I did not ask  
11 you that, and I asked you to assume what I said to be  
12 true and give me an answer based on that. I'll give you  
13 one more opportunity, and then I'm not going to ask that  
14 question again. And it's obvious that you are not going  
15 to answer that or any other questions like that on this  
16 topic.

17 MR. TURNER: Objection as to form, foundation,  
18 incomplete hypothetical and counsel's comments.

19 MR. TORPEY: Q. Mr. Nishiguchi, here's what  
20 I'm going to do. I'm going to ask that the question be  
21 read back in English and in Japanese. I want you to  
22 assume what I said to be the case. I do not want you to  
23 include any other information.

24 I want you to give me your answer based solely  
25 and exclusively -- and I repeat, solely and

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1 exclusively -- on what I gave you as the hypothetical.  
2 That, sir, is the question before you.

3 (Record read by the reporter.)

4 THE WITNESS: I already understand the  
5 question. In answering that question, I would take  
6 action based on my consideration of what the weight of  
7 my own aircraft is. I would also have to know the  
8 altitude, the distance of that other aircraft and also I  
9 would have to know about the wind factor. With all  
10 these factors considered, if I believe that I have  
11 enough time to take off, then I would do so.

12 MR. TORPEY: Q. And if you did not think you  
13 had enough time or you weren't sure, then you would not  
14 do so; correct?

15 MR. TURNER: Objection as to form and  
16 foundation.

17 THE WITNESS: So it's hard for me to answer  
18 unless I know all the conditions.

19 MR. TORPEY: Move to strike that. Read back  
20 my question.

21 Q. And I'd ask you, Mr. Nishiguchi, to respond to  
22 my question, please.

23 MR. TURNER: Objection as to form and  
24 foundation.

25 (Record read by the reporter.)

14 (Pages 50 to 53)



Yusuke Nishiguchi

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1 THE WITNESS: I would need to make an overall  
2 consideration based on the distance and the altitude of  
3 that other aircraft. Since I'm not in that situation  
4 now, I really cannot answer.

5 MR. TORPEY: Q. But you can answer. You  
6 won't answer. And there's a difference.

7 MR. TURNER: You're just arguing with the  
8 witness. Why don't you move on.

9 MR. TORPEY: I'm not going to move on. He's  
10 being evasive, and I'm going to continue to question him  
11 to a point to make this record. He has already --

12 I'm not going to argue with you, Marshall.

13 Q. Mr. Nishiguchi, I want you to make a  
14 determination. The question is if you don't know,  
15 having -- strike that.

16 You've told me what factors you would consider  
17 in making the decision in response to my hypothetical.  
18 I have, however, now asked you if you did not know that,  
19 in fact, you could take off before the other aircraft  
20 was to land, would you continue to taxi onto the active  
21 runway, or would you take some other action such as  
22 stopping and making sure that you could proceed safely  
23 with no collision?

24 MR. TURNER: Objection as to form, foundation  
25 and incomplete hypothetical.

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1 THE WITNESS: I would have to make a judgment  
2 based on all kinds of -- or overall considerations  
3 including the weather, so I cannot say at this point.

4 MR. TORPEY: Move to strike and we'll take  
5 that up with the court.

6 Q. Since you won't answer that, Mr. Nishiguchi,  
7 let me change to another question. And that is if you  
8 were the flying pilot taxiing and you noticed a  
9 potential collision with another aircraft, would you  
10 stop your aircraft?

11 MR. TURNER: Objection as to form and  
12 incomplete hypothetical.

13 THE WITNESS: If there is a collision, of  
14 course, I would stop.

15 MR. TORPEY: Q. And if there's no collision,  
16 you would not stop?

17 A. There are all kinds of situations. Distance  
18 would be a factor. I don't understand what the  
19 situation is in that question, so I cannot answer.

20 Q. Again, we'll move to strike.

21 Mr. Nishiguchi, have you been told not to  
22 answer hypothetical questions?

23 A. No. It is not possible for me to answer  
24 because the conditions set forth in the hypothetical  
25 questions are too limited.

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1 Q. Mr. Nishiguchi, if you thought as the pilot in  
2 command of an aircraft you were going to run into  
3 another aircraft, would you stop?

4 MR. TURNER: Objection as to form and  
5 incomplete hypothetical.

6 THE WITNESS: I cannot answer because I don't  
7 know what the situation is. You say collision, but if  
8 it is right in front, then anybody would stop.

9 MR. TORPEY: Q. Let's end this discussion  
10 with this, Mr. Nishiguchi. If you did not know whether  
11 or not you were going to run into another aircraft while  
12 taxiing and while you were the flying pilot and pilot in  
13 command -- you understand me so far, sir?

14 A. Yes. Yes. Okay.

15 Q. Would you stop or would you go?

16 MR. TURNER: Objection as to form and  
17 incomplete hypothetical.

18 THE WITNESS: I already answered that  
19 question.

20 MR. TORPEY: Q. And that's your final answer,  
21 right, sir?

22 A. That would be my answer to hypothetical  
23 questions the conditions of which are incomplete.

24 Q. Well, I won't ask you any more questions about  
25 conflict resolution, and I will move to strike your

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1 answers, and we'll take that up with the court at  
2 another time.

3 After the impact, Mr. Nishiguchi, what did you  
4 do?

5 A. I stopped the aircraft.

6 Q. How did you do that?

7 A. I used the brakes.

8 Q. Did you make an emergency stop or a normal  
9 stop?

10 A. It wasn't an emergency stop, but the aircraft  
11 stopped immediately.

12 Q. Do you know how many seconds it took, or would  
13 you just be guessing?

14 A. I could not know.

15 Q. Do you know how many feet it took to bring the  
16 aircraft to a stop, or would you just be guessing?

17 A. I do not know.

18 Q. You never went you said to the aircraft and  
19 looked around on the ramp area after the impact; am I  
20 correct?

21 A. After the impact, I was onboard.

22 Q. You did not get off the aircraft until it was  
23 towed back to the terminal, and you walked down the  
24 jetway; correct?

25 A. Yes, I believe so.

15 (Pages 54 to 57)



Yusuke Nishiguchi

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1 Q. Who was operating the radios on the day of  
2 this accident?  
3 A. Captain Yamaguchi.  
4 Q. Who was navigating?  
5 A. What do you mean by navigating?  
6 Q. Who was in charge of any navigational  
7 decisions if you will or -- you obviously understand the  
8 term navigation?  
9 A. I know navigation in the air.  
10 Q. Who was going to be doing navigation  
11 responsibilities on the flight that ended on October 7,  
12 2003, in this collision?  
13 A. You mean pilot flying?  
14 Q. Well, were you as the flying pilot also  
15 charged with responsibility of navigating the aircraft?  
16 A. The PF is mainly responsible for the  
17 operation.  
18 Q. From the time the aircraft on October 7, 2003,  
19 lined up at the engine-start line at San Francisco up to  
20 the impact, do you have a recollection of what you were  
21 doing?  
22 A. I was the PF, pilot flying.  
23 Q. I understand you were the pilot flying, but  
24 what were you doing?  
25 A. I was doing the things that are set forth in

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1 the airline operations manual, such as cockpit  
2 preparation, engine-start, et cetera and taxi out.  
3 Q. You have a checklist in your aircraft;  
4 correct, sir?  
5 A. Yes.  
6 Q. And it's your responsibility as the flying  
7 pilot to perform that checklist; correct?  
8 A. Yes.  
9 Q. And there are checklists for things you do at  
10 the gate; correct?  
11 A. Yes.  
12 Q. There's a checklist for things you do at the  
13 engine-start line; correct?  
14 A. No.  
15 Q. Isn't there a procedure for starting the  
16 engine?  
17 A. Yes.  
18 Q. And that would be done at the engine-start  
19 line; right?  
20 A. No. It is done at about the same time as the  
21 pushback.  
22 Q. And at the time -- strike that.  
23 On October 7, 2003, you actually started the  
24 engines before you got to the engine-start line at  
25 San Francisco; is that correct?

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1 A. I do not have a clear recollection, but I  
2 followed the procedure.  
3 Q. And there's other checklist items that you  
4 perform prior to taxi; correct?  
5 A. Yes. And I did those.  
6 MR. TURNER: Mr. Torpey it's after  
7 1:00 o'clock.  
8 MR. TORPEY: Let's finish this. I'm almost  
9 done.  
10 MR. TURNER: Okay.  
11 MR. TORPEY: Q. There are also checklist  
12 items that need to be performed before taxiing on --  
13 into the movement area or onto the runway; correct?  
14 MR. TURNER: Objection as to form.  
15 THE WITNESS: There is a checklist for items  
16 to be done before takeoff.  
17 MR. TORPEY: Q. And are there items on your  
18 checklist which need to be done before you get clearance  
19 from air traffic control to taxi from the ramp area, in  
20 other words, the nonmovement area, into the movement  
21 area?  
22 A. Those are not determined by a movement area  
23 and nonmovement area.  
24 Q. Okay. What types of things are done on the  
25 checklist before you get to the point that you take off?

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1 A. It changed about two months ago. Now, there  
2 is the preparation checklist, before-start checklist,  
3 after-start checklist, before-taxi checklist and  
4 before-takeoff checklist. Excuse me. According to the  
5 new rule the before-start checklist was changed to  
6 after-start checklist.  
7 THE INTERPRETER: The interpreter will  
8 restate.  
9 THE WITNESS: According to the new rule, the  
10 before-taxi checklist was changed to after-start  
11 checklist.  
12 MR. TORPEY: Q. Is this a Boeing checklist,  
13 or is this something that ANA published?  
14 A. I think they are pretty much identical, but I  
15 am not truly familiar with the Boeing checklist.  
16 Q. On October 7 of 2003, what checklists applied  
17 to the operation of your 777 aircraft?  
18 A. Whatever was the most recent and effective  
19 checklist there was at that time.  
20 Q. During the taxi from the engine-start gate --  
21 I should say after the taxi from the engine-start  
22 gate -- were you performing one of the checklists?  
23 MR. TURNER: Can I have that question back,  
24 please.  
25 (Record not read by the reporter.)

16 (Pages 58 to 61)

Yusuke Nishiguchi

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1 MR. TORPEY: I can rephrase it.  
 2 Q. On October 7, 2003, as the flying pilot, were  
 3 you performing any checklists on or after you left the  
 4 engine-start line at San Francisco?  
 5 A. There is a checklist, but as far as they are  
 6 performed before takeoff, it is fine. So I do not  
 7 recall if I was performing them at that time.  
 8 Q. Was there a flight attendant in the cockpit at  
 9 any time prior to the taxi on October 7, 2003?  
 10 And then we'll take a break.  
 11 A. No.  
 12 MR. TORPEY: Okay. We can take a lunch break.  
 13 How long you want to break for?  
 14 MR. TURNER: We'll see you in an hour. What  
 15 is the time?  
 16 THE VIDEOGRAPHER: Going off the record. The  
 17 time on the monitor is 1:07 p.m.  
 18 (Lunch recess taken.)  
 19 THE VIDEOGRAPHER: Coming back on the record.  
 20 The time on the monitor is 2:06 p.m. Please begin.  
 21 MR. TORPEY: Q. Mr. Nishiguchi, if you look  
 22 at what was marked yesterday as Exhibit 5, recon photo 1  
 23 that we have displayed here on the board, or you can  
 24 look at the copy your counsel has just shown you,  
 25 whichever is more convenient for you.

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1 You can see that there is an aircraft at the  
 2 engine-start area, and up towards the upper portion of  
 3 that photograph is an area where it says spot 10.  
 4 Do you see that?  
 5 A. Yes.  
 6 Q. And you'll see a line drawing from the front  
 7 of the airplane all the way up to where spot 10 is. Do  
 8 you see that?  
 9 A. Yes.  
 10 Q. Is that called the centerline of the taxiway  
 11 or ramp area?  
 12 A. Yes.  
 13 Q. And you as the flying pilot on October 7,  
 14 2003, were you keeping the nose tire of your aircraft on  
 15 that centerline?  
 16 A. It wasn't the nose tire. I was operating the  
 17 aircraft so that the main landing gear would straddle  
 18 the white line.  
 19 Q. In the photograph, this is the line that  
 20 you're referring to; correct?  
 21 A. Yes.  
 22 Q. And where would the nosewheel be positioned as  
 23 you were taxiing the aircraft from the engine-start line  
 24 to the spot 10? And specifically I'm asking for your  
 25 recollection if you have one for the taxi on October 7,

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1 2003.  
 2 A. I can't see the nosewheel, so I don't know.  
 3 Q. Okay. Do you have any procedure that you  
 4 follow with regard to when you taxi trying to keep the  
 5 nosewheel or the nose of the aircraft directly on the  
 6 centerline?  
 7 A. Yes.  
 8 Q. What is the procedure?  
 9 A. If I am at the right seat, then I would have  
 10 my left leg on the -- on the or above the centerline.  
 11 If I do that, then the aircraft would be traveling along  
 12 the middle.  
 13 Q. And even though you can't see the nosewheel,  
 14 you would assume that the nosewheel would be on or very,  
 15 very closely to the yellow line if you follow that  
 16 procedure; correct?  
 17 A. Yes.  
 18 Q. And as far as the main gear, which is the two  
 19 sets of wheels underneath the wings of the aircraft, if  
 20 you have the nose positioned on the centerline, then the  
 21 centerline would be approximately in the middle between  
 22 the left and the right main gear; correct?  
 23 A. Yes.  
 24 Q. Okay. What's the purpose of the centerline  
 25 that we see in this photograph and the reason why you

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1 want to have your aircraft positioned so it's following  
 2 the centerline as you just described?  
 3 MR. TURNER: Objection as to form.  
 4 THE WITNESS: In order not to stick out from  
 5 the taxiway.  
 6 MR. TORPEY: Q. What do you mean by not stick  
 7 out from the taxiway?  
 8 A. We are aware that there are the edges of the  
 9 taxiway, but if there is no centerline, then an aircraft  
 10 may turn to -- may -- may veer somewhat to either side.  
 11 Q. Is the purpose for your following the  
 12 centerline with the nose of the aircraft to keep the  
 13 wings of that aircraft from penetrating beyond the  
 14 taxiway itself?  
 15 A. I think that is one of the reasons also.  
 16 Q. Okay. And if you look at this photo, for  
 17 example, can you see a line to the right and to the left  
 18 of the aircraft wing tips?  
 19 A. Do you mean this line of this aircraft?  
 20 Q. This line right here.  
 21 A. Yes. I can see it.  
 22 Q. And a similar line here. Do you see that?  
 23 A. Yes.  
 24 Q. Am I correct that the width of the taxiway in  
 25 this photo extends from this line to that line; is that

17 (Pages 62 to 65)



Yusuke Nishiguchi

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1 correct?

2 A. It is hard to tell.

3 Q. In your experience, flying into San Francisco  
4 Airport, is there a line on either side of the taxiway  
5 that demarks the distance of the taxiway, in other  
6 words, the width?

7 A. There are lines.

8 Q. And I know that it's not real bright in this  
9 photo, but if you look at this line to the left, excuse  
10 me, to the right of the aircraft -- and it's probably  
11 clearer on the small picture you have there. You might  
12 want to look at that -- if you go to the right of the  
13 line I just pointed to, is that a service vehicle line?  
14 In other words, is that the lane where trucks and  
15 service vehicles drive at the airport?

16 A. I think so.

17 Q. And if we look at the other side, to the left  
18 of the wing, would there again be a service road beyond  
19 the edge of the taxiway?

20 A. I can't tell just on the basis of this  
21 photograph.

22 Q. Do you have a recollection of whether there is  
23 a service lane on the left in that area?

24 A. I do not recall.

25 Q. You don't know one way or the other?

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1 A. I don't know.

2 Q. Okay. Now, if you were to -- strike that.

3 If you were taxiing the aircraft along the  
4 centerline, is there any reason why you would want to  
5 deviate from the centerline before reaching spot 10?

6 MR. TURNER: Objection as to form and  
7 foundation and incomplete hypothetical.

8 MR. TORPEY: Q. Take your time. That's okay.

9 A. You ask me if there's any reason, but in the  
10 world of space it is sometimes difficult to always keep  
11 on the centerline, so at times there could be an  
12 intentional shift from the centerline, or there could be  
13 an unnoticed shift.

14 Q. Have you ever had an occasion to make an  
15 intentional shift while taxiing from the engine-start  
16 line, along this line, in other words, intentionally not  
17 following the centerline?

18 MR. TURNER: Are you specifically referring to  
19 San Francisco International or just in general?

20 MR. TORPEY: Well, let me rephrase it.

21 Q. I'll put it this way. Do you agree with me,  
22 Mr. Nishiguchi, that the reason that centerlines on  
23 taxiways are painted and the reasons why pilots are  
24 taught and required to follow the centerline with the  
25 center of their aircraft, is because failure to do so

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1 could create a collision hazard between the aircraft and  
2 another object or vehicle?

3 A. I think that is one of the reasons too.

4 Q. Do you recall -- and don't guess if you don't  
5 recall -- but if you do recall, do you  
6 remember -- strike that.

7 Let me show you what was marked yesterday as  
8 Exhibit 6 and ask if you've seen that before.

9 A. No.

10 Q. If you'll take a look -- let me back up.

11 I'll represent to you that Exhibit 6 is a  
12 partial transcript of the cockpit voice recorder  
13 prepared by ANA and submitted to the NTSB as part of  
14 their investigation materials submitted to the NTSB.

15 Have you ever, by the way, Mr. Nishiguchi,  
16 ever listened to the cockpit voice recording after this  
17 accident?

18 A. No.

19 MR. TURNER: I just want to make a comment  
20 that I am not sure that Mr. Torpey's representation is  
21 accurate. In fact, I don't think it's accurate, but  
22 he's making that representation here.

23 It's his question, but I want the witness to  
24 know that I do not necessarily agree with his statement.  
25 This is a transcript of the cockpit voice recording

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1 prepared by ANA.

2 MR. TORPEY: Well, that's a speaking objection  
3 and that's not proper, and I'd ask you not to do that  
4 again.

5 Before we continue, Counsel, can we have an  
6 agreement that all objections whether to form,  
7 foundation or anything else are preserved so that you  
8 don't have to interrupt my cross-examination of this or  
9 the witness tomorrow.

10 MR. TURNER: We have federal rules that all  
11 objections except as to form are reserved to the time of  
12 trial, and I'll make my objections as to form. But this  
13 was not an objection to the question. This was an  
14 objection to your misrepresentation.

15 MR. TORPEY: I'm asking you whether you'll  
16 stipulate that we can preserve all objections including  
17 form and foundation so that you won't have to raise them  
18 any further in this deposition or the deposition  
19 tomorrow.

20 MR. TURNER: We'll see as we go along.

21 MR. TORPEY: I need the stipulation now or say  
22 no.

23 MR. TURNER: No.

24 MR. TORPEY: No. Okay.

25 Q. Mr. Nishiguchi, let me have you look at

18 (Pages 66 to 69)



Yusuke Nishiguchi

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1 Exhibit 6, and you'll see in the center it says ramp com  
2 time. Do you see that column?

3 A. Yes.

4 Q. It says there that at 11:53:51 through 57, it  
5 says, Nippon 007, you are cleared to spot 10. Do you  
6 see that?

7 A. Yes.

8 Q. Now, you were not the communicating pilot;  
9 correct?

10 A. No.

11 Q. Were you paying attention to what was being  
12 said by the communicating pilot to ramp control or from  
13 ramp control to the communicating pilot?

14 A. Yes.

15 Q. Was there some type of a speaker, if you will,  
16 in the cockpit so that even though you weren't the  
17 communicating pilot, you could hear the transmissions  
18 from ramp control to your flight deck?

19 A. Yes.

20 Q. As you sit here today, do you have any  
21 recollection of any of the -- without looking at the  
22 transcript that I've shown you -- do you have any  
23 independent recollection of any communications, in other  
24 words, things that were said by ramp control to your  
25 aircraft or your aircraft to ramp control, at any time

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1 prior to the impact?

2 A. I recall you're cleared to spot 10.

3 Q. Anything else that you recall other than that,  
4 or is that all you independently recall at this point?

5 A. This is four years ago, so I have forgotten.

6 Q. And with regard to -- we're looking at the  
7 aircraft here on Exhibit 5. With regard to where your  
8 airplane was, in other words, where it was between the  
9 start line and spot 10, where it was when that  
10 discussion at 11:53:51 through 57 took place, I take it  
11 you don't really recall that either.

12 A. This took place when taxiing began.

13 Q. Okay. So would the area where the airplane is  
14 shown on Exhibit 5 be about the spot you're referring to  
15 when that communication took place?

16 A. I don't know for sure.

17 Q. Does it appear to be approximately the  
18 location as you recall?

19 A. We need the clearance before we begin taxiing,  
20 and so this would have happened before we began taxiing,  
21 so that would be the approximate location.

22 Q. With regard to other transmissions that are  
23 reflected in Exhibit 6 that took place after the  
24 clearance to spot 10, can you tell us, if you recall at  
25 this point, do you recall where along the taxi route

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1 between the start line and spot 10 you were when any of  
2 the other communications took place, or do you not  
3 recall it at this point?

4 MR. TURNER: Objection as to form.

5 THE WITNESS: I do not recall.

6 MR. TORPEY: Q. Mr. Nishiguchi, let me ask  
7 you, with regard to the -- did you ever see a transcript  
8 of the cockpit voice recorder at any time?

9 A. No, I haven't.

10 MR. TORPEY: Could I see that exhibit. Thank  
11 you.

12 Q. Now, you said you were promoted to captain.  
13 Is there a potential promotion to another level, and if  
14 so, what would be the next level for you?

15 A. I don't think there is any.

16 Q. Let me show you another photograph. In fact,  
17 let's mark it. I don't think it's been marked.

18 Before we do that, do you remember as you were  
19 taxiing from the engine-start line, do you recall  
20 whether you were at all times looking outside the  
21 cockpit windows or for some reason would you  
22 occasionally be looking down or somewhere other than  
23 looking outside during that taxi period on October 7 of  
24 '03?

25 MR. TURNER: Objection as to form.

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1 THE WITNESS: I have forgotten.

2 MR. TORPEY: Q. Okay. Fair enough. How tall  
3 are you, sir?

4 A. 175 centimeters.

5 Q. With regard to your -- strike that.

6 Do you recall if -- on October 7, 2003, do you  
7 recall the very first moment that you saw the United  
8 aircraft that you ultimately collided with? Do you  
9 recall if it was at the gate or had it been already  
10 started to push back or do you recall at all?

11 MR. TURNER: Objection as to form.

12 MR. TORPEY: Let me withdraw. Let me  
13 withdraw. I'll withdraw the question. Why don't we  
14 mark this.

15 THE VIDEOGRAPHER: Counsel, can I change tape  
16 while you do this.

17 MR. TORPEY: Yeah. That's a good time to do  
18 that.

19 (Whereupon, Exhibit 10 was marked for  
20 identification.)  
21 (Recess taken.)

22 THE VIDEOGRAPHER: Here begins Videotape 3 in  
23 the deposition of Yusuke Nishiguchi. Coming back on the  
24 record. The time is 2:40. Please begin.

25 MR. TORPEY: Q. Mr. Nishiguchi, let me show

19 (Pages 70 to 73)

Yusuke Nishiguchi

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1 you what was marked as Exhibit 10 which we also have up  
2 on the screen. And if you look at the bottom of the  
3 photograph, it says ANA 001058. Do you see that?

4 You see next to the exhibit sticker, ANA? You  
5 see that?

6 A. Yes.

7 Q. Okay. Let me pull this back. That,  
8 Mr. Nishiguchi, is a photograph that was provided to us  
9 by counsel for ANA in what's called the Rule 26  
10 disclosure.

11 And so you understand, sir, that is a document  
12 that was prepared not by us but provided by -- provided  
13 to us by ANA or at least their counsel. Do you  
14 understand that?

15 A. Yes.

16 Q. And you see at the bottom of the photograph it  
17 says, figure 3, first possible direct line of sight from  
18 UA 809. Do you see that?

19 A. Yes.

20 Q. Now, you see this line here, this black line?

21 A. Yes.

22 Q. If this is your aircraft on October 7, 2003,  
23 and this is United 809 on that same date -- strike that.

24 Let me start over. You see there's a line  
25 drawn between the cockpit of this aircraft, which is

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1 United's view of your aircraft taxiing up along the  
2 centerline; correct?

3 A. Well, since that isn't me, I don't know.

4 Q. Okay. Well, looking at the photograph, does  
5 it appear from the photograph as the line is drawn that  
6 the crew of the United Airlines would be able to see  
7 past the tail and see your aircraft in that drawing?

8 A. I don't know.

9 Q. Well, let me do this. Let me do something  
10 that this picture also shows. Well, there's a line  
11 drawn from the cockpit of the United aircraft to the --  
12 or I should say from the tip of the United aircraft to  
13 the tip of your aircraft.

14 It would be fair to say that you really can't  
15 tell whether you or the United aircraft or either could  
16 see each another at that point because this green  
17 airplane is positioned at the gate in the middle between  
18 you; correct?

19 A. Right.

20 Q. Let me ask you a different question. If we  
21 were to draw a line from the cockpit, which would be  
22 approximately -- this is approximately the cockpit in  
23 the ANA aircraft on this photograph true? About where  
24 my pen is.

25 A. Yes.

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1 represented to be the ANA aircraft that you were the  
2 pilot of, and the United aircraft flight 809. You see  
3 that line?

4 A. Rather than the cockpit it looks like the  
5 nose.

6 Q. Well, the cockpit is very close to the nose,  
7 isn't it?

8 A. Yes.

9 Q. If ANA's representation is correct that this  
10 is the location for the first possible direct line of  
11 sight from UA 809 to the nose of your aircraft, would  
12 you agree with me that it would also be the first  
13 possible direct line of sight from the nose of your  
14 aircraft to the nose of the United aircraft?

15 A. This is just a line. Because of obstacles  
16 such as that green airplane in the middle, I'm not sure  
17 if it was the first time that it was possible to see the  
18 other aircraft.

19 Q. All right. So that would apply both to United  
20 and to ANA; correct?

21 A. Yes.

22 Q. Okay. So in other words, if the United crew  
23 is here in the cockpit looking to their right, the tail  
24 of this parked green airplane that's in between the  
25 United aircraft and your aircraft could be blocking

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1 Q. And this is the tail of the United aircraft;  
2 correct?

3 A. Yes.

4 Q. And this is the wing structure from the United  
5 aircraft; correct?

6 A. Yes.

7 Q. And this is the fuselage of the United  
8 aircraft; correct?

9 A. Yes.

10 Q. And the vertical tail, there is a big fin that  
11 goes up vertically here; correct?

12 A. Yes.

13 Q. Now, even if you and/or the United crew cannot  
14 see each other in terms of the nose, if you are looking  
15 from your right-hand seat at the United aircraft, you  
16 would be able to see the tail and the wings of the  
17 United aircraft; correct?

18 A. I do not recall.

19 Q. Well, I'm not asking you if you recall at the  
20 moment. Let's do this. All right. Let's draw  
21 hypothetically a different line. If you draw a line --  
22 I don't want to cover that up. Okay. Let's say I draw  
23 a line from the nose of the ANA aircraft to the United  
24 aircraft. Do you see that?

25 MR. TURNER: Can I ask you, Mr. Torpey, have

20 (Pages 74 to 77)



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1 you done that on the marked exhibit?

2 MR. TORPEY: That is the marked exhibit,  
3 correct.

4 MR. TURNER: So let the record reflect that  
5 Mr. Torpey has just drawn that line on the marked  
6 Exhibit 10.

7 MR. TORPEY: I think the video will reflect  
8 that.

9 MR. TURNER: I'd like the transcript to  
10 reflect it.

11 MR. TORPEY: Q. You see the line that has  
12 been drawn approximately from the center to the forward  
13 wing position of the cockpit of the ANA aircraft? Do  
14 you see that?

15 A. Yes.

16 Q. Now, if you were seated in the right-hand seat  
17 of this aircraft, you should be able to see the wings of  
18 the United aircraft when your aircraft is at that  
19 position?

20 A. That is not so.

21 Q. And why not?

22 A. The line may be there, but the actual  
23 situation would be different.

24 Q. What do you mean the actually situation would  
25 be different?

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1 A. There could have been other obstacles. On  
2 this photograph it would seem that it is possible to  
3 have that view along that black line, but, in fact,  
4 there could have been other things.

5 Q. Well, let's just assume that this photograph  
6 produced by ANA accurately reflects the scene that  
7 existed on October 7, 2003, when your aircraft was at  
8 that position. Do you understand me so far?

9 A. Yes.

10 Q. And I understand you don't remember the scene  
11 that day, but if this photograph accurately represents  
12 the situation as existed on October 7, 2003, when your  
13 aircraft was at that position, then you would have had a  
14 sight line from your aircraft to the forward wing  
15 position of the United aircraft; correct?

16 A. No.

17 Q. Why would you not have had a sight line from  
18 your cockpit to the forward wing position if this is an  
19 accurate representation of the scene on October 7, 2003?

20 A. This is an aerial photograph taken from above,  
21 but on land the situation would be different.

22 Q. How would it be different?

23 A. I think it would be totally different. The  
24 view would be radically different.

25 Q. So you're saying that this is not an accurate

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1 representation as -- strike that.

2 Do you believe that if your aircraft was at  
3 the position that's reflected in this photograph and the  
4 United aircraft was at the position that's reflected in  
5 this photograph, do you believe that you could --  
6 sitting in the right-hand seat of your aircraft, see the  
7 tail of the United aircraft?

8 A. I don't know.

9 Q. Okay. Fair enough. Let me ask you -- let me  
10 turn for a moment to something else.

11 With regard to -- I think we covered that.

12 With regard to -- hang on. Excuse me. Let me show you  
13 one other exhibit I don't think we marked.

14 Now, during the taxi -- let's mark this.

15 (Whereupon, Exhibit 11 was marked for  
16 identification.)

17 MR. TORPEY: Q. Before we get into that, do  
18 you recall whether the United aircraft when you first  
19 saw it while taxiing on October 7, 2003, was stopped or  
20 was moving?

21 THE INTERPRETER: Can you give me that  
22 question, please.

23 (Record read by the reporter.)

24 THE WITNESS: I do not recall at this time.

25 MR. TORPEY: Q. Now, do you remember, if you

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1 recall, the last time you looked at the United aircraft  
2 prior to the impact, whether it was stopped or moving?

3 A. It was moving. But we are moving to, so it is  
4 hard to tell.

5 Q. But it was -- the United aircraft definitely  
6 was moving; correct?

7 A. As I just said, we are moving too, but it  
8 looked like it was moving.

9 Q. Did you ever -- strike that.

10 MR. TORPEY: Could you read back my question  
11 that he answered. I just want to have that again.

12 (Record read by the reporter.)

13 MR. TORPEY: Okay. That's fine.

14 Q. Let me ask you to look at Exhibit 11, which I  
15 think you have in front of you; correct, sir?

16 A. Yes.

17 Q. Have you ever had a chance to read that  
18 statement before.

19 A. Yes.

20 Q. When did you last read it?

21 A. I do not recall.

22 Q. Have you read it in the last couple of days  
23 since you've been here or last day?

24 A. I do not recall.

25 Q. When was the last time you talked to

21 (Pages 78 to 81)

Yusuke Nishiguchi

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1 Mr. Yamaguchi?  
 2 A. Yesterday.  
 3 Q. And where was that at?  
 4 A. At the Hilton Hotel.  
 5 Q. Okay. Were you staying at the same location  
 6 as he?  
 7 A. Yes.  
 8 Q. And what did you two discuss?  
 9 A. I do not recall specifically.  
 10 Q. All right. Now, let's turn to the statement,  
 11 Exhibit 11. Do you remember giving a statement and  
 12 having it typed out?  
 13 A. I don't know if it was typed out.  
 14 Q. Do you know who took this statement from you?  
 15 A. I do not know the name, but it was someone  
 16 from the company.  
 17 Q. From ANA?  
 18 A. Or some governmental authority from the U.S.  
 19 I don't recall which.  
 20 Q. When did you go back to Japan after this  
 21 October 7, 2003 incident?  
 22 A. I think it was the day after or two days after  
 23 the incident.  
 24 Q. Did someone have a tape recorder and take the  
 25 statement from you?

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1 A. I have forgotten.  
 2 Q. Now, if you look at the second page of  
 3 Exhibit 11, is that your signature?  
 4 A. Yes, I think so.  
 5 Q. Do you recall whether there was any prior  
 6 drafts that you reviewed before you signed that  
 7 statement?  
 8 A. I have forgotten.  
 9 Q. Do you know whether there were any other  
 10 statements that you were asked to sign or review in  
 11 addition to the one that you signed here and we marked  
 12 as Exhibit 11?  
 13 A. I do not know.  
 14 Q. With regard to this statement, which is dated  
 15 October 8, 2003, would it be fair to say that -- strike  
 16 that.  
 17 This statement, Exhibit 11, has a date of  
 18 October 8, 2003. Do you see that?  
 19 A. Yes.  
 20 Q. And so this statement by you would have been  
 21 provided on or before -- strike that.  
 22 The statement would have been provided by you  
 23 either on October 7 or no later than October 8, 2003,  
 24 since it's dated October 8, 2003? Is that a fair  
 25 statement?

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1 A. Yes.  
 2 Q. Let's look at that statement. And if you look  
 3 at -- it says Dear Mr. McKenny, and you look to the  
 4 second paragraph underneath That it says that you as the  
 5 first officer seated in right-hand seat, your duty was  
 6 pilot flying. You see that?  
 7 A. Yes.  
 8 Q. And underneath that you see some time  
 9 references, 18:48, 18:55, 19:30. Do you see that?  
 10 A. Yes.  
 11 Q. Do you know who provided those time references  
 12 for inclusion on this statement?  
 13 A. I do not have a clear recollection, but it was  
 14 probably me.  
 15 Q. Okay. If it was you, do you know from what  
 16 information you would have gotten those times to provide  
 17 them?  
 18 A. Well, with the clock out, the log starts, so I  
 19 can tell the time that way.  
 20 MR. TORPEY: Give me again, that answer.  
 21 (Record read by the reporter.)  
 22 MR. TORPEY: Q. What are you referring to as  
 23 the clock and the log?  
 24 A. I didn't say log. The clock is the clock in  
 25 the aircraft.

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1 Q. Is that the Hobbs?  
 2 A. I don't know what you mean by that.  
 3 Q. Describe for me what the clock is you're  
 4 referring to from which you got the information that is  
 5 on this exhibit.  
 6 A. There is a clock that has a diameter of about  
 7 10 centimeters on the aircraft.  
 8 Q. Well, what does that clock do? Just tells you  
 9 the time of day, or does it tell you something about the  
 10 operation of the aircraft, or what does it do?  
 11 A. It serves several functions. It shows UTC in  
 12 the time sequence, it also works as a stopwatch. It  
 13 also tells us the Japan time, and it also tells us the  
 14 day according to the western California.  
 15 Q. What is 18:48? What is that referring to? Is  
 16 that Japan time?  
 17 A. No. I think it is UTC.  
 18 Q. Do you know for sure, or are you guessing at  
 19 this point?  
 20 A. I am sure.  
 21 Q. Now, after the impact, how long was it that  
 22 you and the others were in the aircraft before it was  
 23 towed back and you deplaned?  
 24 A. I do not remember.  
 25 Q. Did you ever go back in the plane -- I should

22 (Pages 82 to 85)



Yusuke Nishiguchi

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1 say, when was the next time you went back into that  
 2 particular aircraft following this collision?  
 3 A. I do not remember.  
 4 Q. I take it you did not go back in the aircraft  
 5 before you went back to Japan following this collision?  
 6 A. Maybe we had left our flight bags onboard, so  
 7 we might have returned to retrieve the bags.  
 8 Q. But only for a few minutes to get the bags,  
 9 not to do anything else?  
 10 A. I do not have a clear recollection.  
 11 Q. When you say you do not have a clear  
 12 recollection, does that mean you have no recollection?  
 13 A. I'm saying that I might have returned to  
 14 retrieve my bag, but that is not certain.  
 15 Q. So when you use the term in this deposition  
 16 that you don't have a clear recollection, what you're  
 17 saying is you really don't know, you really would be  
 18 guessing; is that correct?  
 19 MR. TURNER: Objection as to form.  
 20 THE WITNESS: No. That is not so.  
 21 MR. TORPEY: Q. Okay. What do you mean by  
 22 you do not have a clear recollection?  
 23 A. That is precisely what I mean.  
 24 Q. Okay. Well, I guess I'm not sure what you  
 25 mean. Let's start over.

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1 What does it mean in your mind that you do not  
 2 have a clear recollection?  
 3 A. It is just as I said.  
 4 Q. When you don't have a clear recollection, is  
 5 that another way of saying you don't have an accurate  
 6 recollection?  
 7 A. No. That's different.  
 8 Q. Okay. Then how is it different?  
 9 A. Whatever I recall accurately, I recall  
 10 accurately.  
 11 Q. And if you don't recall it accurately, you  
 12 don't have a clear recollection?  
 13 A. I think the meaning is a little different.  
 14 Q. Well, did you fly or deadhead back after this  
 15 accident?  
 16 THE INTERPRETER: Can I have that question.  
 17 (Record read by the reporter.)  
 18 THE INTERPRETER: I don't understand the  
 19 question.  
 20 MR. TORPEY: Q. When you returned to Japan  
 21 after the October 7, 2003 incident, did you return as a  
 22 flying member of a crew, or were you a deadheading  
 23 passenger back?  
 24 A. As a passenger.  
 25 Q. During the time immediately after the

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1 collision and before you deplaned, was there discussion  
 2 between yourself and the other two pilots as to what  
 3 took place?  
 4 A. You mean after the collision?  
 5 Q. That's correct. Before you deplaned.  
 6 A. Yes.  
 7 Q. Now, there's a cockpit voice recorder in your  
 8 aircraft; correct?  
 9 A. Yes.  
 10 Q. Referring to the one that was involved in the  
 11 collision?  
 12 A. Yes.  
 13 Q. In order to power it up, does it work off of  
 14 battery power or an APU? Or what's the power source for  
 15 that?  
 16 A. I'm not sure.  
 17 Q. Let me ask you, did you go through any type  
 18 of -- after the accident, did you take any notes or --  
 19 you or the others in the cockpit -- were you writing  
 20 anything down before you deplaned?  
 21 A. I don't think I did.  
 22 Q. What were you doing from the time of the  
 23 impact until you were towed back and then deplaned.  
 24 What did you and the others do other than as you said  
 25 talked about what had happened?

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1 A. I did various things. For example, I did  
 2 tasks that I were assigned, and things that have to be  
 3 done to return to the terminal, so I did those things.  
 4 Q. Tell me what those things are?  
 5 A. I think Captain Yamaguchi was making an  
 6 announcement.  
 7 Q. To the passengers?  
 8 A. Yes.  
 9 Q. And other than that, what else was done by you  
 10 or the others of the flight crew?  
 11 A. I can't recall everything, but I think I was  
 12 making contact with the cabin attendant also.  
 13 Q. Other than making the announcement, the  
 14 captain that is, and you contacting the flight  
 15 attendant, what about with regard to the aircraft and  
 16 its systems? What did you do, if anything?  
 17 A. I turned the AP in order to shut the engine  
 18 down.  
 19 Q. What's the AP?  
 20 A. APU.  
 21 Q. Auxillary power unit?  
 22 A. Auxillary power unit.  
 23 Q. You turned that on and shut the engines off?  
 24 A. I probably shut down one of the engines, and  
 25 then turned the APU on, and when it came on, I then

23 (Pages 86 to 89)